

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Michael Hudgens,	)	C/A No.: 6:11-1853-JFA-KFM
	)	
Plaintiff,	)	
vs.	)	
	)	ORDER
Michael J. Astrue, Commissioner of Social	)	
Security,	)	
	)	
Defendant.	)	
_____	)	

The *pro se* plaintiff brings this action pursuant to § 405(g) and 1383(c)(3) of the Social Security Act, as amended, to obtain judicial review of the final decision by the Commissioner of Social Security denying plaintiff's claim for disability insurance benefits (DIB) and supplemental security income (SSI).

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation wherein he suggests that the complaint is premature because the plaintiff has not yet completed an Appeals Council review of the most recent denial of benefits on his claim.

The parties were advised of their right to submit objections to the Report and Recommendation which was filed on September 28, 2011. The plaintiff has filed a one

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<sup>1</sup> The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

paragraph response to the Report wherein he indicates his hardships, both medical and financial. However, as the Magistrate Judge properly notes, this court cannot proceed with a review of the plaintiff's claims until the matter is exhausted before the Social Security Commissioner.

The court has carefully reviewed the record, the Report and Recommendation, and the objections thereto, and finds the recommendation of the Magistrate Judge to be proper. It is therefore ordered that the Report is incorporated herein and that this action is dismissed without prejudice.

IT IS SO ORDERED.

October 19, 2011  
Columbia, South Carolina

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.  
United States District Judge